

FILED 09 JUN 29 15:00 USDC-ORP

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

JOHN M. MEEKS,)	
)	Civil No. 09-524-HA
Plaintiff,)	
)	
v.)	
)	ORDER
FEDERAL BUREAU OF PRISONS,)	
)	
Defendant.)	
_____)	

HAGGERTY, District Judge.

Plaintiff initiated the current action with a Petition for Writ of Habeas Corpus filed pursuant to 28 U.S.C. § 2241. He alleges that the Federal Bureau of Prisons is not providing him with the appropriate level of medical care required by the law. Plaintiff's challenge pertains to the conditions of his confinement, not the execution of his sentence. For this reason, 28 U.S.C. § 2241 is not an appropriate remedy, and this case is more accurately characterized as an action brought pursuant to *Bivens v. Six Unknown Federal Narcotics Agents*, 403 U.S. 388

(1971). See *Hernandez v. Campbell*, 204 F.3d 861, 864 (9th Cir. 1999) (28 U.S.C. § 2241 petition is the proper method for a federal prisoner to challenge the manner, location, or conditions of a sentence's execution). Accordingly, the filing fee for this case is \$350.00. 28 U.S.C. § 1914(a). Plaintiff has not paid a filing fee for this case yet. Accordingly, should plaintiff wish to continue with this action, he must either pay the \$350.00 fee, or move to proceed *in forma pauperis*. Plaintiff's failure to do so within 30 days will result in the dismissal of this case.

The court notes that plaintiff has a pending Motion for Temporary Restraining Order [2] in which he asks the court to immediately transfer him to another institution. Pursuant to Fed. R. Civ. P. 65(b)(2), the court may issue a temporary restraining order without notice to the adverse party or that party's attorney only if the applicant "certifies to the court in writing the efforts, if any, which have been made to give the notice and the reasons supporting the claim that notice should not be required." As plaintiff has not done so, his Motion is denied.

CONCLUSION

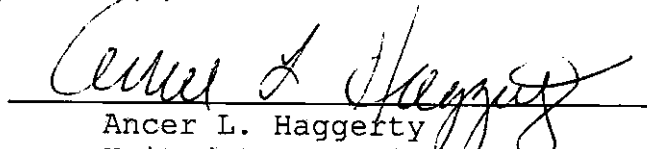
Should plaintiff wish to continue with this case, he must either pay the \$350.00 civil filing fee, or file an application to proceed *in forma pauperis*.

Plaintiff's Motion for Temporary Restraining Order [2] is DENIED. The court reserves ruling on plaintiff's Motion for

Appointment of Counsel [5] pending his timely compliance with this Order.

IT IS SO ORDERED.

DATED this 29 day of June, 2009.


Ancer L. Haggerty
United States District Judge